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Jean-Michel Karam

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BURR & BROWN

PO BOX 7068

SYRACUSE, NY 13261-7068

EXAMINER

NASSER, ROBERT L

ART UNIT

PAPER NUMBER

3735

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 8, and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or Cowie 5588440. Cowie shows a device with a hand held probe 10 having an acquisition region, the curved tip, with three sensors on the tip, a temperature sensor, and sound sensor, and a moisture sensor. The sensors are connected to a processing unit comprised of a moisture monitor, a stethoscope, and a temperature monitor, where the signals from the 3 sensors are processed and used to diagnose the cutaneous surface (see column 3, lines 20-25). With respect to claim 6, the processing unit is electrically connected to the acquisition region and the acquisition region can be positioned in front of the cutaneous surface. Claim 8 is rejected in that there is also a display (column 3, line 8). Claim 10 is rejected in that diagnosing the region involves classifying the skin into a category.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka et al 6251070 in view of Campbell et al 6370426. Khazaka shows a

device for measuring cutaneous parameters with 2 sensors, a sebum sensor 12 and a moisture sensor 18. It has a hand held device with the sensors in an acquisition region, and a processor unit to measure the skin parameters from the sensor output. Campbell teaches that a moisture sensor is temperature dependent and should be compensated for the effects of temperature. As such, it would have been obvious to modify Khazaka to locate a temperature sensor with the moisture sensor to improve the accuracy of the readings. With respect to claim 6, the processing unit is electrically connected to the acquisition region and the acquisition region can be positioned in front of the cutaneous surface. Claim 8 is rejected in that there is also a display 26.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cowie in view of Haddock et al 6712771. Haddock further teaches that a MEMS temperature sensor is a known temperature sensor. As such, it would have been obvious to modify Cowie to use a MEMS sensor, as it is merely the substitution of one known temperature sensor for another.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Campbell et al, as applied to claims 1, 6, and 8 above, further in view Haddock et al 6712771. Haddock further teaches that a MEMS temperature sensor is a known temperature sensor. As such, it would have been obvious to modify the combination to use a MEMS sensor, as it is merely the substitution of one known temperature sensor for another.

Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowie. The examiner takes official notice that wireless connections, particularly, rf

connections, between sensors and processors are well known in the medical field, to allow flexibility of use of the device, so the heavy processing equipment can remain stationary and the light measuring instrument may be moved. As such, it would have been obvious to modify Cowie to use wireless transmission, to increase the flexibility of use of the device.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Campbell et al, as applied to claims 1, 6, and 8 above, further in view Leveque 6944191. Khazaka is used to evaluate the topography of the skin, including scaling and wrinkles. Leveque teaches that such skin evaluation devices may be connected via the internet to a library of cosmetic products, to evaluate treatment products for the skin. As such, it would have been obvious to modify the combination to connect to a treatment library, to ensure that the patient receives the most up to date and accurate treatments. As to claim 9, been obvious to use a MEMS sensor. Claim 9 is rejected in that given that the system of Leveque connects to an internet site, it seems clear that the system is designed to link to multiple users. Hence, it would have been obvious that the combination would have would be multiple handheld units, to accommodate multiple users.

Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 2 and 3 define over the art in that none of the art has the three enumerated sensors a single acquisition region of a handheld device, as claimed.

Applicant's arguments filed 8/29/2007 have been fully considered but they are moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert L. Nasser
Primary Examiner
Art Unit 3735

/Robert L. Nasser/
Primary Examiner, Art Unit 3735